

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6211**

**BILL NUMBER:** SB 223

**NOTE PREPARED:** Apr 25, 2013

**BILL AMENDED:** Apr 23, 2013

**SUBJECT:** Child Exploitation.

**FIRST AUTHOR:** Sen. Young R Michael

**FIRST SPONSOR:** Rep. McMillin

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. *Child Exploitation* – It provides that child exploitation, a Class C felony, includes managing, producing, filming, disseminating, exhibiting, or otherwise making available material depicting: (1) the genitals of a child less than 18 years of age; or (2) the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child less than 18 years of age; if the filming, dissemination, exhibition, or making material available was performed with the intent to satisfy or arouse the sexual desires of any person.
- B. *Possession of Child Pornography* – It makes it possession of child pornography, a Class D felony, for a person to knowingly or intentionally possess certain pictures or images that: (1) depict or describe the exhibition of the female breast with less than a fully opaque covering of any part of the nipple by a child the person knows is less than 16 years of age or who appears to be less than 16 years of age; and (2) lack serious literary, artistic, political, or scientific value.
- C. It provides for certain defenses.

**Effective Date:** Upon Passage.

**Explanation of State Expenditures:** This bill expands the definition of child exploitation, a Class C felony and possession of child pornography, a Class D felony .

It is unknown how many additional people might be committed for either child exploitation or possession of child pornography under these expanded definitions. Persons who were committed to Department of Correction

(DOC) facilities between FY 2007 and 2012 for either Child Solicitation or Possession of Child Pornography are shown in the following table.

| <b>Commitments to DOC Facilities For FY 2007 through 2012</b> |             |             |             |             |             |             |
|---|-------------|-------------|-------------|-------------|-------------|-------------|
| Offense   | <u>2007</u> | <u>2008</u> | <u>2009</u> | <u>2010</u> | <u>2011</u> | <u>2012</u> |
| Child Solicitation  | 11          | 5           | 9           | 6           | 10          | 13          |
| Possession of Child Pornography                               | <u>10</u>   | <u>9</u>    | <u>7</u>    | <u>4</u>    | <u>11</u>   | <u>5</u>    |
| Grand Total   | <u>21</u>   | <u>14</u>   | <u>16</u>   | <u>10</u>   | <u>21</u>   | <u>18</u>   |

A Class C felony is punishable by a prison term ranging from 2 to 8 years, depending upon mitigating and aggravating circumstances. A Class D felony is punishable by a prison term ranging from 6 months to 3 years, depending upon mitigating and aggravating circumstances.

The average expenditure to house an adult offender was \$18,582 in FY 2012. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$78,318 in FY 2012.

**Explanation of State Revenues:** If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for both Class C and D felonies is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

**Explanation of Local Expenditures:** If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, Department of Correction.

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